

NO. 5:09-CR-117-1H

V.

Defendant.

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the date of this order, a total of \$426,658.72 has been collected from the defendant, as a result of garnishing defendant's portion of the proceeds from the sale of his residence as well as a small amount received via monthly payments from the defendant made most likely through the Inmate Financial Responsibility Program within the Bureau of Prisons (BOP). The total outstanding balanced of restitution owed by defendant is \$26,235.28.

At the request of the government, the Instructions to Criminal Defendant, Clerk's Notice of Post-Judgment Execution, Right to Have Exemptions Designated, and a Request for Hearing, was issued by the Clerk of Court on October 7, 2010 (DE #50), and subsequently served on the defendant by U.S. Mail and the U.S. Marshals Service. On November 4, 2010, the Court received a completed Claim for Exemptions Form from defendant.

At the request of the government, a Writ of Garnishment was issued by the Clerk of Court on October 28, 2010 (DE #57) to TD Ameritrade. On November 10, 2010, TD Ameritrade filed an answer with the court (DE #63) confirming custody of Account No. XXX-XX82222, Rollover Individual Retirement Account in the name of Harold Earl Blondeau, containing an approximate liquidation value of \$208,856.82.


Also at the request of the government, a Writ of Garnishment was issued by the Clerk of Court on October 28, 2010 (DE #58) to Thaddeus J. Barringer, Jr. and Gwendolyn N. Barringer. On November 5, 2010, Gwendolyn N. Barringer filed an answer with the court (DE #62) in which she confirmed custody of an Asset Purchase Agreement dated November 1, 2007 with \$14,250.00 remaining to be paid to defendant between November 30, 2010 and May 31, 2011. On November 12, 2010, Thaddeus J. Barringer, Jr. filed an answer with the Court (De #64) in which he confirmed he was a garnishee in this case and he did not indicate he was holding any nonexempt property of the defendant.

To contest a garnishment, the judgment debtor must file an objection within 20 days of receiving the garnishee's answer, and bears the burden of proving that the proposed garnishment is inappropriate. 28 U.S.C. § 3205(c)(5). Defendant, through Counsel, filed an Objection to Garnishment. Defendant's counsel subsequently withdrew, and defendant filed Superseding Objections to Garnishment pro se.

The objections note that although a hearing was requested, the parties were attempting to reach an agreement and an immediate hearing was not desired. It appears that no agreement has been reached. Therefore, the court hereby refers this matter to United States Magistrate Judge David W. Daniel. Judge

Daniel shall schedule a hearing in this matter and submit a Memorandum and Recommendation ("M&R") to the undersigned concerning this matter.

This 7th day of July 2011.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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